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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,540	06/26/2001	Tony Mastronardi	871-102	9380
23117	7590	04/25/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				HUYNH, BA
ART UNIT		PAPER NUMBER		
2179				

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/888,540	MASTRONARDI, TONY
	Examiner	Art Unit
	Ba Huynh	2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 February 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 14-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 14-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

The applicant had been informed (for a third time) that the applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent #5,355,302 (Martin et al), in view of US patent #5,963,916 (Kaplan).

Martin et al (hereinafter Martin) teach a musical jukebox which plays a complete song responsive to receipt of fee from a user. The jukebox system comprises a jukebox device 13 including a microprocessor 121A, a local computer memory 93 that maintain a database of digitized songs of various artists and related graphical items (5:10-20) corresponding to album covers (4:51-53) associated with each the digitized songs, a

display 125 for displaying video, an audio arrangement 127 providing audio, a communication system 15 for enabling the musical jukebox to communicate with an audio and graphic distribution network (fig 1), and a multitasking operating system that enables simultaneous operation of the microprocessor, the display, the audio arrangement, and the communication system (5:26-59), wherein the musical jukebox is operable to play the digitized songs from the local memory in response to a user's request and receipt of fee from the user (5:51-55; 7:56-67), wherein the display screen 125 displays album covers (4:51-53; 5:49-51) and scroll buttons for scrolling the display (7:22-26). A server 11 remote from the jukebox device that can be accessed by the jukebox through the communication network (fig 1). The server maintains a master database 27 of song and graphics that can be selectively downloaded to the jukebox device (5:8-25). Martin fails to clearly teach a touch screen interface for enabling the user to select song from a touch displayed album cover. However in the same field of invention, Kaplan teaches a musical kiosk comprising a touch screen interface enabling the user to select song from a touch displayed album cover. It would have been obvious to one of skill in the art, at the time the invention was made, to combine Kaplan's teaching touch screen interface to Martin's jukebox. Motivation of the combining is for the advantage of having a user-friendly touch screen interface (it has been established that musical kiosk and musical jukebox is in the same field of invention. Combining musical kiosk technology to jukebox system had been known. See Doerr et al, 1:36-41).

The registration process and checking of registration is inherently included in Martin's teaching of monitoring and updating of jukebox's musical collection (Martin's

3:4-17), and in Kaplan's teaching of establishing telecommunication link to the network (Kaplan's 4:29-31) and polling of all kiosk stations (Kaplan's 7:55-57), since updating, monitoring, and polling can only perform on devices registered to the network. Even if it is not, registration of service device connected to a network is well known in networking (see US patent 5,805,804, 19:26-35; US patent 6,308,204, claim 1). Thus it would have been obvious to one of skill in the art, at the time the invention was made, to combine the well-known implementation of device registration to Martin&Kaplan. Motivation of the combining is for updating, monitoring, and polling information from the device as suggested by both Martin and Kaplan.

- As for claim 15: Per Kaplan, the user interface is operable, by activating button 258, to display graphical items representing any additional album covers of the same artist as the selected album cover for which song exist on the local computer memory (13:32-46).
- As for claim 16: Per Kaplan, upon selection of a displayed additional album cover of the same artist, the user interface is operable, by activating Album Preview, Back Track, and Related Albums buttons to display the newly selected cover, a list of song on the local computer memory that exist on the album represented by the newly selected album cover of the same artist as the newly selected album cover for which song exist on the local computer memory.
- As for claim 17: Kaplan's figure 17 displays up to a predetermined number of additional covers of the same artist from a list of additional album covers, and UP/DOWN button for scrolling through the list of additional album cover.

- As for claim 18: In light of the combining set forth in claim 14, it would have been obvious to assign a registration number to registered terminal for network security and business management.
- As for claim 19: The jukebox communicates exploitation information on each played digitized song to the server (Martin's 1:7-17; 6:3-19).

***Response to Arguments***

2. Applicant's arguments with respect to claims 14-19 have been considered but are not persuasive in view of the new ground of rejection. The jukebox that plays a complete song responsive to a fee collection is disclosed by Martin as set forth in the Office action.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ba Huynh whose telephone number is (571) 272-4138. The examiner can normally be reached on Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The formal fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ba Huynh  
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4/23/06

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PRIMARY EXAMINER